

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JOHN N. CASTELLANO, III,)
)
Plaintiff,)
)
vs.) Case 4:19-CV-02304-SRC
)
VERNON BETTS, et al.,)
)
Defendants.)

ZOOM DEPOSITION OF SGT. TIMOTHY HAILL

Taken on behalf of Plaintiff

September 1, 2020

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REGISTERED PROFESSIONAL REPORTER
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1 terms of importance is if you don't understand a
 2 question that I'm asking, I would ask you to stop me
 3 and have me repeat it, because we want to make sure
 4 you understand the question, because when this
 5 deposition is over, if I ask a question and you answer
 6 it, we're all going to understand that you understood
 7 the question and you answered it truthfully and
 8 completely, and we'd rather not be arguing later about
 9 whether you understood the question or not.

10 So just tell me to repeat it and I'll repeat
 11 it, and hopefully at that point, we can move on and
 12 answer.

13 I don't think your deposition is going to be
 14 very long, but if you need to take a break or you need
 15 to attend to something, because it looks like you are
 16 at the sheriff's department, just let us know and
 17 we'll be glad to accommodate the break. The only
 18 thing I would ask is if I've asked a question and you
 19 want to take a break, you at least answer the question
 20 that's before you, then we'll take the break and start
 21 with a new question, okay?

22 A Sure.

23 Q And then Zoom makes this even harder because
 24 of the delays. And you're going to start anticipating
 25 what I say, I'm going to start anticipating what you

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1 say. Jo Ann will tell you that if I get excited, I'll
 2 start talking to you all over the place. Hopefully
 3 that won't happen. It doesn't happen very often
 4 unless people aren't answering my questions. So if
 5 you could wait for me to finish asking a question
 6 before you answer, and I'll try to wait till you
 7 finish answering a question before I ask the next one,
 8 and that just makes everything simpler for Jo Ann,
 9 even if you think you know where I'm going and you
 10 want to answer my question.

11 The last thing, and I'm sure they told you
 12 this, if you could answer yes where appropriate or no
 13 where appropriate instead of nodding a head or doing
 14 the uh-huhs or uh-uhs that are so prevalent in our
 15 society. And we'll remind you if you're not doing
 16 that because we do want a clear record. It's like not
 17 asking a clear question. Korey and I don't want to be
 18 arguing after this deposition is over whether an uh-uh
 19 means a yes or a no. So if you answer yes or no, it
 20 takes all the fun out of it for us. We can't argue
 21 over anything, okay?

22 A Completely clear on that fact.

23 Q Let me ask you what, if anything -- and I'm
 24 not asking about conversations you might have had with
 25 Korey, exclude that. But what, if anything, did you

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1 do to prepare for your deposition today?

2 A Nothing.

3 Q So you haven't reviewed any documents or
 4 anything?

5 A No.

6 Q I will ask, I want to be clear, I'm not
 7 asking about the content, okay? But I'm assuming you
 8 did have a conversation with Korey.

9 A I did.

10 Q And all I want to know about that is what
 11 day it took place and how long it lasted.

12 A That was Monday, and maybe about 20 minutes,
 13 if that.

14 Q Okay. That's all I'm going to get into on
 15 that or she'll start jumping up and down.

16 MS. LEWIS: I'm busy trying to think of the
 17 date and how long it was as well.

18 MS. PETRUSKA: I saw you thinking and I'm
 19 like is she going to object to that?

20 MS. LEWIS: No, just thinking about how all
 21 the days are the same and run together.

22 THE WITNESS: Yes.

23 BY MS. PETRUSKA:

24 Q Yes, we'll all agree to that.

25 So if I'm understanding your previous

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1 testimony correctly, you were IAD in 2016 when
 2 Sheriff Murphy was still the sheriff.

3 A Yes.

4 Q And when Sheriff Murphy was still the
 5 sheriff, did he do anything to announce when
 6 promotions might be open or available?

7 A No, ma'am.

8 Q So no emails went out during
 9 Sheriff Murphy's tenure that said these positions are
 10 opening; if you're interested, apply by this date.

11 A No, none that I'm aware of.

12 Q Was there ever one that took place toward
 13 the end of his tenure, say, the fall of 2016? Late
 14 summer, fall of 2016? Did he say we're going to have
 15 some open positions, if you're interested, let me
 16 know?

17 A I think he generally spoke about it. I had
 18 submitted a letter in reference to being promoted.

19 Q In that fall of 2016 time frame?

20 A Yes.

21 Q I'm asking you because John says he
 22 submitted it to you. Do you remember John submitting
 23 a letter to you to let Sheriff Murphy know that he was
 24 also interested in that promotion opportunity?

25 A I do not recall John ever submitting any

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1 letter about promotion to me.

2 Q Let me ask you this. Are you saying it
3 didn't happen or somebody submitting a letter to you
4 four years ago is something you might not remember so
5 you just don't have a present recollection of it?

6 A I do not have a present recollection of John
7 ever submitting a letter to me about a promotion for
8 him in 2016.

9 Q Did other people submit letters to you about
10 promotion in 2016?

11 A No.

12 Q So you weren't the person that
13 Sheriff Murphy said if you're interested, submit this
14 to.

15 A Correct.

16 Q Who did you submit your letter to when you
17 were interested?

18 A Sheriff Murphy.

19 Q Is the IAD office, do you and the sheriff
20 occupy like a shared office suite or anything like
21 that, or are you in separate offices?

22 A Sure. His office is across the room from
23 mine, and I would say probably maybe 25 feet across.

24 Q Now, when Sheriff Murphy made that
25 announcement that there might be some positions --

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1 sergeant positions open, did he ever promote anybody
2 before he left?

3 A He did not, no. Well, I take that back. I
4 think earlier in that year he had promoted
5 Sergeant Hogan to lieutenant and Lieutenant Robinson
6 to captain.

7 Q And actually, let me be more specific and
8 clear, then, in terms of my question.

9 So he makes this announcement that there
10 might be promotions open and if anybody's interested,
11 to let him know, and it sounds like in writing, or at
12 least you submit a writing, correct?

13 A Yes.

14 Q Did he say to let people know in writing or
15 did he just say let me know.

16 A I don't recall.

17 Q Let me broaden it. Do you recall anything
18 he told the deputies about those open positions or the
19 possibility the positions might open up?

20 A I do not.

21 Q After he makes that announcement, does he
22 promote anybody after that time frame or do you submit
23 and nobody gets promoted after the submission is made?

24 A When I submitted, nothing else was ever done
25 after that.

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1 Q Do you remember the time frame he made that
2 announcement?

3 A Not specifically. I know it was towards the
4 end of his tenure here.

5 Q Was it like a month or was it several
6 months?

7 A I would say a few months before. I would
8 say probably the last quarter.

9 Q So if John's recollection was it was
10 sometime in the fall of 2016, that would somewhat be
11 consistent with your recollection because it's towards
12 the end of his term.

13 A Yes, that would be consistent. Yeah, that
14 would be consistent.

15 Q Do you know what happened to your letter?
16 And if you don't know, just tell me you don't know.

17 A I don't know.

18 Q And then Sheriff Betts is elected and he's
19 sworn in, my understanding is, in January of 2017; is
20 that correct?

21 A Yes, ma'am.

22 Q And he is the one that promotes you to
23 sergeant, correct?

24 A Yes, ma'am.

25 Q Describe for me what, if any, process was

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1 used for your promotion.

2 A None whatsoever as far as I knew. When Tim
3 and I spoke about my position in the sheriff's
4 department, he was on the task of bringing on some
5 people that he wanted to put in command positions, and
6 he asked me if I would be interested in being the
7 sergeant of the property room, of which I replied to,
8 yes, I would.

9 Q You said him and I. The him is
10 Sheriff Betts, correct?

11 A Correct.

12 Q Did you approach Sheriff Betts or did
13 Sheriff Betts approach you about these -- what these
14 positions or where you might go under his tenure?

15 A He approached me as to where I see myself
16 going with the sheriff's office with him and Charlie.

17 Q And do you remember when that happens in
18 terms of when he takes office, or did it happen before
19 he took office?

20 A It did not happen before he took office.
21 Him and I only had, I think, one brief conversation at
22 one of his election rallies and that, and as far as
23 that goes, I would say our conversation about my
24 future with the sheriff's office was probably in late
25 January, early February of 2017.

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1 open and people could apply?

2 A I know of two for sure that I was in
3 attendance of. I believe there was a third one that
4 occurred when I was possibly on vacation. After that,
5 I don't know of any others.

6 Q And can you tell me, let's call them the
7 first, second and it sounds like you weren't there for
8 another one, so -- the two you were there for, do you
9 know a time frame when he made the announcement?

10 A Mid-to late 2017 was one of them, and I
11 believe early 2018 was another one.

12 Q I know you said you weren't there, but do
13 you have any knowledge of when this third announcement
14 might have been made in terms of a time frame?

15 A I do believe it was probably later on in
16 2018. And if I say later, I would say based, on my
17 past history, and I have it written down when I was on
18 vacation, so that may even narrow it down a little bit
19 further, but Octoberish of 2018.

20 Q Of '18?

21 A Yes.

22 Q And other than this conversation with
23 Sheriff Betts where he asked you where he -- where you
24 see you going under his -- in his department, do you
25 ever let Sheriff Betts know that you want to be

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1 considered for promotion?

2 A Yes. I mean, that's what I originally
3 stated to him is I would like to be considered for a
4 promotion.

5 Q During that first meeting when he asked you
6 where you saw yourself going --

7 A Yes.

8 Q -- you said you wanted to be promoted.

9 A Yes.

10 Q Any other time other than that meeting that
11 you talked to him about wanting to be promoted?

12 A No, ma'am.

13 Q Now, it's my understanding that when you're
14 promoted, there's at least two sergeant positions open
15 because Felicia Davis gets promoted the same day; is
16 that correct?

17 A Yes, that's my understanding, yes.

18 Q If you know, and if you don't, just tell me
19 again, do you know who besides yourself and Davis were
20 considered for those open positions?

21 A I do not know.

22 Q And when the positions were open, did he, he
23 being Betts, did he interview you in any way, shape or
24 form as part of a consideration of promoting you?

25 A He did not.

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1 Q Did you undergo any kind of testing related
2 to that promotion?

3 A I did not.

4 Q How do you learn that you were going to be
5 promoted?

6 A I believe the colonel came to me and said I
7 think the sheriff is looking at promoting you here in
8 the future, and it was literally right before I went
9 on vacation that he promoted me.

10 Q When you say the colonel, that is who?

11 A Steve Roberts.

12 Q He's the only one that holds the rank of
13 colonel?

14 A Yes.

15 Q And my understanding is he's also the
16 undersheriff?

17 A Yes.

18 Q How many majors do you have in the sheriff's
19 department?

20 A We have two.

21 Q And then how many captains?

22 A I believe there's three positions for
23 captain.

24 Q And how about lieutenant?

25 A Off the top, I can't recall exactly how many

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1 positions are available for lieutenant, but I would
2 think there's six, five or six.

3 Q And I think you said you don't -- do you
4 know how many sergeants there are right now,
5 regardless of -- I'm not asking the question now how
6 many are budgeted. Do you know how many sergeants
7 there are right now as we're talking today?

8 A If I could sit and count them out I could
9 tell you exactly numbers, but...

10 Q Ballpark is fine.

11 A Ten, 12.

12 Q So the sheriff's department, is that like
13 any other paramilitary organization, it's a funnel?
14 So most people are deputies and then the higher up,
15 the fewer the numbers you have, correct?

16 A Correct.

17 Q If you know, what was the -- well, you'll
18 know it for you, so let me ask it this way. What was
19 the pay difference when you were promoted from deputy
20 to sergeant?

21 A It was a five percent increase.

22 Q Five percent increase, okay.

23 Before Betts was elected sheriff in 2017,
24 did he make any promises or representations to the
25 deputies about how he was going to handle promotions

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1 Q Do you know anything about how Felicia Davis
2 was promoted on the same date you were? Do you know
3 anything about that process?

4 A I do not.

5 Q So during your entire time as a deputy, so
6 when Murphy was sheriff, did you ever see a promotions
7 list or a list of candidates when he was sheriff?

8 A He handed me the list for captain -- well,
9 Sergeant to Lieutenant Hogan and then
10 Lieutenant Robinson to Captain Robinson.

11 Q Now, that sounds like he gave you the names
12 of people he had selected, correct?

13 A Correct.

14 Q I'm sorry, let me be more clear on my
15 question. Did you ever see a list of people -- so
16 like a candidate's list, a list of people he might be
17 considering for promotion --

18 A No, ma'am.

19 Q -- as opposed to those he had chosen?

20 A No, ma'am.

21 Q Have you ever been individually or as part
22 of a team involved in making any recommendations to
23 Sheriff Betts about a promotion?

24 A Individually, yes, I have, I made a
25 recommendation to him.

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1 Q Were you ever involved individually or as
2 part of a team about making a recommendation to
3 Sheriff Murphy about a promotion?

4 A No.

5 Q It sounds like individually you have made
6 recommendations to Sheriff Betts about promotions; is
7 that correct?

8 A I have made one recommendation, yes.

9 Q That was going to be my first question, how
10 many. You're already anticipating my questions.

11 What were the circumstances under which you
12 made a recommendation to Sheriff Betts about
13 promotion?

14 A There was a court opening in the Civil
15 Courts Building, and he in general just threw out some
16 names I guess that had expressed interest, and I told
17 him that I believed Walter -- you know,
18 Sergeant Walter Allen at the time,
19 Deputy Walter Allen, would be a good candidate for
20 possibly promotion to sergeant.

21 Q Do you remember the other names -- the he,
22 again, is Sheriff Betts, correct?

23 A Correct.

24 Q What other names did Sheriff Betts throw out
25 that he was considering at the time?

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1 A I don't remember all those names. I don't
2 recall for sure.

3 Q Do you remember any of them?

4 A It was just Walter Allen that stuck in my
5 mind because working with him, I knew some of his work
6 ethics and how he operated, which was poorly.

7 Q And how did you know that?

8 A By working with him.

9 Q What time period had you worked with him?

10 A I want to say I went back to courts in 2008
11 or '09, and I worked with him for three -- three years
12 out of that, until 2014.

13 Q Until you went into IAD, okay?

14 A Yes.

15 Q Was that the time period that Walter Allen
16 was, in fact, promoted to sergeant?

17 A Which time frame is that?

18 Q So actually, I have a cheat sheet, but I
19 didn't bring it in here for you because I wasn't
20 prepared for you asking me questions. When we take a
21 break I'll give you a time frame.

22 A If you want me to simplify it, if you're
23 referencing the time frame that I talked to the
24 sheriff about Walter Allen's promotion, I believe it
25 was just thereafter he was promoted to sergeant.

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1 Q Perfect. So whatever the time frame was, in
2 short proximity to you recommending him for promotion,
3 he was promoted.

4 A Yes, ma'am.

5 Q And it sounds like, again, this was a time
6 where Sheriff Betts approached you and said I'm
7 thinking about; is that correct?

8 A Yes.

9 Q You didn't approach him and say, hey, I know
10 you have an open slot, this person might be a good
11 person.

12 A No. He regularly goes around to people and,
13 you know, as far as supervisors go, and asks about
14 what do you think of this person? How is their work?
15 You know, what kind of relationship do you have with
16 them as far as their work background or anything like
17 that?

18 Q How do you know he regularly does it, he
19 being Betts?

20 A Heard him conversating with other people
21 before. And when I say heard him generalizing, what
22 do you think of this person or what do you think of
23 that person.

24 Q Just, again, I know your office is in
25 somewhat close proximity, so are you hearing these

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1 A That's correct.

2 Q It sounds like the files at the sheriff's
3 department are still paper files? To your knowledge
4 they've not been digitalized yet?

5 A Mostly, yes.

6 Q Mostly paper?

7 A Mostly paper.

8 Q So you're probably wondering why you've been
9 asked to this deposition, and it's because in initial
10 disclosures you've been identified as a person that
11 was involved in investigating Plaintiff's complaints.
12 My understanding is you did not have any involvement
13 in investigating Plaintiff's complaints, and by
14 complaints, I mean his charges of discrimination.

15 A Correct.

16 Q So you don't -- you may have seen two
17 charges of discrimination, but you had no role in
18 investigating anything as it relates to John and
19 charges of discrimination.

20 A Correct.

21 Q So you've made no findings or
22 recommendations to the sheriff as it relates to any
23 investigation into his charges of discrimination
24 because you didn't investigate anything.

25 A Correct.

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1 Q Do you remember who first told you about
2 Castellano's charges of discrimination?

3 A I want to say that may have been
4 Colonel Roberts who asked first about it.

5 Q Did you ever actually see the charges or did
6 you just know it was a charge, so it went to the City
7 Counselor's office?

8 A I think he actually handed me the EEOC file
9 complaint number and all that and said what do we do
10 with this. I told him they go to the City Counselor's
11 office based on what I had known from previous.

12 Q Let me ask you this. So more typically,
13 when you receive a complaint and you're charged with
14 an investigation, how do you typically handle an
15 investigation? What is your process?

16 A Well, first I talk to the person that's
17 filed the complaint to see what they have as far as
18 being their main structure of their complaint. I have
19 them typically write out their statement on a form. I
20 give them a copy of the form that's on file. I met
21 with the sheriff's office. I give it a complaint
22 number. And then I do my investigation based on any
23 kind of information they can supply me in supporting
24 their claims, and go from there.

25 Q And then I'm assuming if there's witnesses,

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1 you would interview the witnesses?

2 A Yes.

3 Q And then if there's any indication that
4 there's documents, you try to obtain any documents
5 that would be related to that; is that correct?

6 A Yes.

7 Q So then once you complete your witness
8 interviews and obtain all documents that you believe
9 are available, what's the next step in the process?
10 Or do you make a recommendation or...

11 A I would submit that, plus a recommendation
12 to the sheriff for his review.

13 Q So I know -- so in the police department
14 they do this ARDS summary, and it's kind of like these
15 the charges, this is what we've done, this is what we
16 found. Do you guys do the same thing?

17 A Yes.

18 Q And then at the conclusion of the ARDS there
19 would be that the complaint was either sustained, not
20 sustained, unfounded, there's a variety of things. Do
21 you make that recommendation as well?

22 A I do.

23 Q Do you also make a recommendation as to
24 appropriate discipline, assuming the complaint is
25 founded?

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1 A Discipline or any kind of actions that would
2 be, yes, I would make that recommendation.

3 Q During Betts' tenure, have you ever
4 recommended that an employee be fired?

5 A Yes.

6 Q During Murphy's tenure, did you ever
7 recommend that an employee be fired?

8 A Yes.

9 Q Did the sheriff -- did Murphy follow your
10 recommendation?

11 A He did not on one of them.

12 Q And, again, I'm not overly interested in
13 specific discipline. How many times during Murphy's
14 tenure did you recommend termination?

15 A Twice.

16 Q And so one time he followed it, one time he
17 didn't, is my understanding.

18 A Correct.

19 Q How many times during Betts' tenure have you
20 recommended termination?

21 A Maybe twice.

22 Q Did he follow your recommendations or did he
23 not follow them?

24 A Followed one.

25 Q So, again, one time he did, one time he